

AMENDED IN SENATE JUNE 29, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 440**

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**Introduced by Assembly Member Brownley**  
*(Principal coauthor: Senator Simitian)*

February 14, 2011

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An act to amend Sections 14502.1, 47604, 47605, 47605.6, and 47607 of, and to add Section 47630.6 to, the Education Code, relating to charter schools.

LEGISLATIVE COUNSEL'S DIGEST

AB 440, as amended, Brownley. Charter schools.

(1) Existing law requires the Controller, in consultation with the Department of Finance and the State Department of Education, to develop a plan to review and report on financial and compliance audits. Existing law requires the Controller to propose the content of an audit guide and authorizes a supplement to the audit guide to be suggested in the audit year to address issues resulting from new legislation in that year that changes the conditions of apportionment. Existing law requires the Controller to submit the proposed content of the audit guide and any supplement to the Education Audits Appeal Audit Appeals Panel for review and possible amendment and requires the Education Audits Appeal Audit Appeals Panel to adopt the audit guide and any supplement pursuant to the rulemaking procedures of the Administrative Procedure Act.

This bill would require the Controller to propose, and the Education Audits Appeal Audit Appeals Panel to adopt, a charter school supplement to the audit guide in order to provide guidance to auditors regarding which sections of the school district and county office of education

audit guide apply to charter schools and to create specific guidance related to the unique nature of charter schools. The bill also would make conforming changes.

(2) The Charter Schools Act of 1992 (Charter Schools Act) allows a charter school to elect to operate as, or be operated by, a nonprofit public benefit corporation, as specified.

This bill would impose a state-mandated local program by requiring a charter school operating as, or operated by, a for-profit corporation to notify the Superintendent of Public Instruction of that fact in writing *annually when the petition is first approved, upon renewal of the petition, and if there is a change in the for-profit status of the school.*

(3) The Charter Schools Act specifies the procedures for the submission, review, and approval or denial of a petition to establish a standard or countywide charter school. The act allows the governing board of a school district to deny a charter petition only if the board makes written factual findings that support certain facts regarding the petition. The act requires a county board of education to deny a petition to establish a countywide charter school if the board makes any of several specified factual findings.

~~This bill, in addition, would allow a governing board of a school district to deny a petition and would require a county board of education to deny a petition for a countywide charter, if it makes a written factual finding that would authorize a school district and a county board of education, in determining whether to grant a charter petition, to consider whether the petitioner has operated another charter school for at least 3 consecutive years and one of several specified events has occurred. The bill would require a charter petition to describe the means by which the school will serve certain pupil populations.~~

(4) The Charter Schools Act limits the duration of charters to a period not to exceed 5 years and authorizes the chartering authority to grant one or more subsequent renewals for an additional period of 5 years. The act prescribes the requirements a charter school must comply with in order to have its charter renewed, including a requirement that a charter school that has been in operation for 4 years satisfy at least one of several specified criteria regarding academic performance.

~~This bill would authorize a charter renewal to be for a period of 1 to 5 years. The bill would require a chartering authority to consider, as one factor in determining whether to grant a renewal, the degree to which a charter school serves pupil populations that are similar to local school district pupil populations, especially with regard to high-need~~

~~pupils, as specified. The bill would delete one of the criteria for the requirement regarding charter schools in operation for 4 years. The bill would prohibit a chartering authority from granting a renewal of a charter school for longer than a 3-year period if that charter school is in program improvement or has entered into year 5 of program improvement, has not exited program improvement, and did not meet Adequate Yearly Progress in the year prior to the renewal year change the criteria a charter school is required to meet in order to have its charter renewed.~~

*The bill would authorize a charter school not meeting the renewal criteria to apply to the State Board of Education for a determination of academic eligibility for the renewal of its charter by submitting supporting evidence to the state board and the Superintendent of Public Instruction. The bill would require the Superintendent to make a recommendation to the state board on the application. The bill would require the state board to issue a positive determination of academic eligibility if the state board finds that the charter school clearly demonstrates that the academic performance of the school's pupils builds an expectation that the pupils will continue to improve academically and have the opportunity to be successful in college or career. A charter renewal based on a determination of academic eligibility would be granted for only 3 years.*

(5) The Charter Schools Act requires a charter petition to include a reasonably comprehensive description of the manner in which annual, independent financial audits will be conducted. The act requires a charter school to transmit a copy of its annual, independent financial audit report for the preceding fiscal year to its chartering entity, the Controller, the county superintendent of schools of the county in which the charter school is sited, except as specified, and the State Department of Education by December 15 of each year.

This bill would require the Controller, by December 31 of each fiscal year, to publish a directory of certified public accountants and public accountants, licensed by the California Board of Accountancy, deemed by the Controller to be qualified to conduct audits of charter schools. The bill would require each audit of a charter school to be conducted by a certified public accountant or public accountant selected by the charter school from the directory. The bill would specify that it is unlawful for a public accounting firm to provide audit services to a charter school if the lead audit partner, or coordinating audit partner, having primary responsibility for the audit, or the audit partner

responsible for reviewing the audit, has performed audit services for that charter school in each of the 6 previous fiscal years, except as provided.

(6) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. It is the intent of the Legislature in enacting this
- 2 act to do all of the following:
- 3 (a) Ensure successful conditions for high-performing and
- 4 high-quality charter schools and encourage high levels of academic
- 5 performance and sound fiscal management practices among charter
- 6 schools.
- 7 (b) Implement accountability standards for charter schools that
- 8 will ensure that all charter schools are of high quality.
- 9 (c) Ensure successful conditions for high-performing charter
- 10 schools by setting academic achievement targets as a condition of
- 11 charter renewal, accountability standards to identify charter schools
- 12 that are not high quality, and evaluation standards to determine
- 13 whether entities operating multiple charter schools are establishing
- 14 and operating high-quality charter schools.
- 15 (d) Establish fiscal management standards for charter schools
- 16 that are as rigorous as those for other schools and school districts,
- 17 in order to ensure the most efficient and effective use of public
- 18 funds for the education of children in California.
- 19 (e) Ensure successful conditions for high-performing charter
- 20 schools by setting standards for the auditing of, and financial
- 21 reporting by, charter schools so as to provide for the transparent
- 22 use of public funds.
- 23 (f) Require a charter school authorizer to consider during a
- 24 charter school renewal whether a charter school has intentionally
- 25 targeted high-achieving pupils to attend the charter school and

1 whether the charter school's population generally reflects a similar  
2 proportion of low-achieving pupils as the local school district pupil  
3 population, especially high-need pupils, including, but not limited  
4 to, pupils with disabilities, pupils living in poverty, and English  
5 learners.

6 SEC. 2. Section 14502.1 of the Education Code is amended to  
7 read:

8 14502.1. (a) The Controller, in consultation with the  
9 Department of Finance and the State Department of Education,  
10 shall develop a plan to review and report on financial and  
11 compliance audits. The plan shall commence with the 2003–04  
12 fiscal year for audits of school districts, other local education  
13 agencies, and the offices of county superintendents of schools.  
14 The Controller, in consultation with the Department of Finance,  
15 the State Department of Education, and representatives of the  
16 California School Boards Association, the California Association  
17 of School Business Officials, the California County  
18 Superintendents Educational Service Association, the California  
19 Teachers Association, *and* the California Society of Certified  
20 Public Accountants, shall recommend the statements and other  
21 information to be included in the audit reports filed with the state,  
22 and shall propose the content of an audit guide to carry out the  
23 purposes of this chapter. A supplement to the audit guide may be  
24 suggested in the audit year, following the above process, to address  
25 issues resulting from new legislation in that year that changes the  
26 conditions of apportionment. The proposed content of the audit  
27 guide and any supplement to the audit guide shall be submitted by  
28 the Controller to the Education Audits Appeal Panel for review  
29 and possible amendment.

30 (b) The audit guide and any supplement shall be adopted by the  
31 Education Audits Appeal Panel pursuant to the rulemaking  
32 procedures of the Administrative Procedure Act as set forth in  
33 Chapter 3.5 (commencing with Section 11340) of Part 1 of Division  
34 3 of Title 2 of the Government Code. It is the intent of the  
35 Legislature that, for the 2003–04 fiscal year, the audit guide be  
36 adopted by July 1 of the fiscal year to be audited. A supplemental  
37 audit guide may be adopted to address legislative changes to the  
38 conditions of apportionment. It is the intent of the Legislature that  
39 supplements be adopted before March 1 of the audit year.  
40 Commencing with the 2004–05 fiscal year, and each fiscal year

1 thereafter, the audit guide shall be adopted by July 1 of the fiscal  
2 year to be audited. A supplemental audit guide may be adopted to  
3 address legislative changes to the conditions of apportionment.  
4 The supplements shall be adopted before March 1 of the audit  
5 year. To meet these goals and to ensure the accuracy of the audit  
6 guide, the process for adopting emergency regulations set forth in  
7 Section 11346.1 of the Government Code may be followed to  
8 adopt the guide and supplemental audit guide. It is the intent of  
9 the Legislature that once the audit guide has been adopted for a  
10 fiscal year, as well as any supplement for that year, thereafter only  
11 suggested changes to the audit guide and any additional  
12 supplements need be adopted pursuant to the rulemaking  
13 procedures of the Administrative Procedure Act. The audit guide  
14 and any supplement shall be issued in booklet form and may be  
15 made available by any means deemed appropriate. The Controller  
16 and consultants in the development of the suggested audit guide  
17 and any supplement shall work cooperatively on a timeline that  
18 will allow the ~~education audits appeal panel~~ *Education Audits*  
19 *Appeal Panel* to meet the July 1 and March 1 issuance dates.  
20 Consistent with current practices for development of the audit  
21 guide before the 2003–04 fiscal year, the Controller shall provide  
22 for the adoption of procedures and timetables for the development  
23 of the suggested audit guide, any supplement, and the format for  
24 additions, deletions, and revisions.

25 (c) For the audit of school districts or county offices of education  
26 electing to take formal action pursuant to Sections 22714, 22714.5  
27 (as it read prior to January 1, 2005), 44929, and 44929.1 (as it read  
28 prior to January 1, 2005), the audit guide content proposed by the  
29 Controller shall include, but not be limited to, the following:

- 30 (1) The number and type of positions vacated.  
31 (2) The age and service credit of the retirees receiving the  
32 additional service credit provided by Sections 22714, 22714.5 (as  
33 it read prior to January 1, 2005), 44929, and 44929.1 (as it read  
34 prior to January 1, 2005).  
35 (3) A comparison of the salary and benefits of each retiree  
36 receiving the additional service credit with the salary and benefits  
37 of the replacement employee, if any.  
38 (4) The resulting retirement cost, including interest, if any, and  
39 postretirement health care benefits costs, incurred by the employer.

(d) The Controller shall annually prepare a cost analysis, based on the information included in the audit reports for the prior fiscal year, to determine the net savings or costs resulting from formal actions taken by school districts and county offices of education pursuant to Sections 22714, 22714.5 (as it read prior to January 1, 2005), 44929, and 44929.1 (as it read prior to January 1, 2005), and shall report the results of the cost analysis to the Governor and the Legislature by April 1 of each year.

(e) All costs incurred by the Controller to implement subdivision (c) shall be absorbed by the Controller.

(f) Pursuant to subdivisions (a) and (b), the Controller shall propose, and the Education Audits Appeal Panel shall adopt, a charter school ~~supplement to the~~ audit guide to provide guidance on the sections of the school district and county office audit guide that apply to charter schools and to provide specific guidance on the unique nature of charter schools. In developing the charter school ~~supplement~~ *audit guide*, the Controller shall consult with representatives of the following organizations:

- (1) Organizations specified in subdivision (a).
- (2) The California Charter Schools Association.
- (3) *The Association of California School Administrators.*
- ~~(3)~~
- (4) Other charter school organizations, as appropriate.

SEC. 3. Section 47604 of the Education Code is amended to read:

47604. (a) Charter schools may elect to operate as, or be operated by, a nonprofit public benefit corporation, formed and organized pursuant to the Nonprofit Public Benefit Corporation Law (Part 2 (commencing with Section 5110) of Division 2 of Title ~~4~~ 1 of the Corporations Code).

(b) The governing board of a school district that grants a charter for the establishment of a charter school formed and organized pursuant to this section shall be entitled to a single representative on the board of directors of the nonprofit public benefit corporation.

(c) An authority that grants a charter to a charter school to be operated by, or as, a nonprofit public benefit corporation is not liable for the debts or obligations of the charter school, or for claims arising from the performance of acts, errors, or omissions by the charter school, if the authority has complied with all oversight responsibilities required by law, including, but not limited

1 to, those required by Section 47604.32 and subdivision (m) of  
2 Section 47605.

3 (d) A charter school operated as, or operated by, a for-profit  
4 corporation shall notify the Superintendent of that fact in writing  
5 *annually when the petition is first approved, upon renewal of the*  
6 *petition, and if there is a change in the for-profit status of the*  
7 *school.*

8 SEC. 4. Section 47605 of the Education Code is amended to  
9 read:

10 47605. (a) (1) Except as set forth in paragraph (2), a petition  
11 for the establishment of a charter school within a school district  
12 may be circulated by one or more persons seeking to establish the  
13 charter school. A petition for the establishment of a charter school  
14 shall identify a single charter school that will operate within the  
15 geographic boundaries of that school district. A charter school  
16 may propose to operate at multiple sites within the school district,  
17 as long as each location is identified in the charter school petition.  
18 The petition may be submitted to the governing board of the school  
19 district for review after either of the following conditions are met:

20 (A) The petition is signed by a number of parents or legal  
21 guardians of pupils that is equivalent to at least one-half of the  
22 number of pupils that the charter school estimates will enroll in  
23 the school for its first year of operation.

24 (B) The petition is signed by a number of teachers that is  
25 equivalent to at least one-half of the number of teachers that the  
26 charter school estimates will be employed at the school during its  
27 first year of operation.

28 (2) A petition that proposes to convert an existing public school  
29 to a charter school that would not be eligible for a loan pursuant  
30 to subdivision (b) of Section 41365 may be circulated by one or  
31 more persons seeking to establish the charter school. The petition  
32 may be submitted to the governing board of the school district for  
33 review after the petition is signed by not less than 50 percent of  
34 the permanent status teachers currently employed at the public  
35 school to be converted.

36 (3) A petition shall include a prominent statement that a  
37 signature on the petition means that the parent or legal guardian  
38 is meaningfully interested in having his or her child or ward attend  
39 the charter school, or in the case of a teacher's signature, means



1 that the teacher is meaningfully interested in teaching at the charter  
2 school. The proposed charter shall be attached to the petition.

3 (4) After receiving approval of its petition, a charter school that  
4 proposes to establish operations at one or more additional sites  
5 shall request a material revision to its charter and shall notify the  
6 authority that granted its charter of those additional locations. The  
7 authority that granted its charter shall consider whether to approve  
8 those additional locations at an open, public meeting. The approval  
9 of additional locations of a charter school constitutes a material  
10 revision of its charter.

11 (5) A charter school that is unable to locate within the  
12 jurisdiction of the chartering school district may establish one site  
13 outside the boundaries of the school district, but within the county  
14 in which that school district is located, if the school district within  
15 the jurisdiction of which the charter school proposes to operate is  
16 notified in advance of the charter petition approval, the county  
17 superintendent of schools and the Superintendent are notified of  
18 the location of the charter school before it commences operations,  
19 and either of the following circumstances exist:

20 (A) The school has attempted to locate a single site or facility  
21 to house the entire program, but a site or facility is unavailable in  
22 the area in which the school chooses to locate.

23 (B) The site is needed for temporary use during a construction  
24 or expansion project.

25 (6) Commencing January 1, 2003, a petition to establish a charter  
26 school may not be approved to serve pupils in a grade level that  
27 is not served by the school district of the governing board  
28 considering the petition, unless the petition proposes to serve pupils  
29 in all of the grade levels served by that school district.

30 (b) No later than 30 days after receiving a petition, in accordance  
31 with subdivision (a), the governing board of the school district  
32 shall hold a public hearing on the provisions of the charter, at  
33 which time the governing board of the school district shall consider  
34 the level of support for the petition by teachers employed by the  
35 district, other employees of the district, and parents. Following  
36 review of the petition and the public hearing, the governing board  
37 of the school district shall either grant or deny the charter within  
38 60 days of receipt of the petition. The 60-day period may be  
39 extended by an additional 30 days if the governing board and the  
40 proponents of the petition agree to the extension. In reviewing

1 petitions for the establishment of charter schools pursuant to this  
2 section, the chartering authority shall be guided by the intent of  
3 the Legislature that charter schools are and should become an  
4 integral part of the California educational system and that  
5 establishment of charter schools should be encouraged. The  
6 governing board of the school district shall grant a charter for the  
7 operation of a school under this part if it is satisfied that granting  
8 the charter is consistent with sound educational practice. The  
9 governing board of the school district shall not deny a petition for  
10 the establishment of a charter school unless it makes written factual  
11 findings, specific to the particular petition, setting forth specific  
12 facts to support one or more of the following findings:

13 (1) The charter school presents an unsound educational program  
14 for the pupils to be enrolled in the charter school.

15 (2) The petitioners are demonstrably unlikely to successfully  
16 implement the program set forth in the petition. *In determining if*  
17 *a petitioner is demonstrably unlikely to successfully implement the*  
18 *program set forth in the petition, a chartering authority may*  
19 *consider whether a petitioner has operated another charter school*  
20 *for at least three consecutive years and whether any of the*  
21 *following has occurred:*

22 (A) *The charter school demonstrated academic achievement*  
23 *equivalent to a persistently lowest-achieving school, as defined in*  
24 *Section 53200.*

25 (B) *The charter school completed its first renewal cycle and*  
26 *was not renewed by the authorizing entity, the county board of*  
27 *education, or the state board.*

28 (C) *The charter school had its charter revoked, and the charter*  
29 *was not restored by the county board of education or the state*  
30 *board.*

31 (3) The petition does not contain the number of signatures  
32 required by subdivision (a).

33 (4) The petition does not contain an affirmation of each of the  
34 conditions described in subdivision (d).

35 (5) The petition does not contain reasonably comprehensive  
36 descriptions of all of the following:

37 (A) (i) A description of the educational program of the school,  
38 designed, among other things, to identify those whom the school  
39 is attempting to educate, what it means to be an “educated person”  
40 in the 21st century, and how learning best occurs. The goals

1 identified in that program shall include the objective of enabling  
2 pupils to become self-motivated, competent, and lifelong learners.

3 (ii) If the proposed school will serve high school pupils, a  
4 description of the manner in which the charter school will inform  
5 parents about the transferability of courses to other public high  
6 schools and the eligibility of courses to meet college entrance  
7 requirements. Courses offered by the charter school that are  
8 accredited by the Western Association of Schools and Colleges  
9 may be considered transferable and courses approved by the  
10 University of California or the California State University as  
11 creditable under the “A” to “G” admissions criteria may be  
12 considered to meet college entrance requirements.

13 (B) The measurable pupil outcomes identified for use by the  
14 charter school. “Pupil outcomes,” for purposes of this part, means  
15 the extent to which all pupils of the school demonstrate that they  
16 have attained the skills, knowledge, and attitudes specified as goals  
17 in the school’s educational program.

18 (C) The method by which pupil progress in meeting those pupil  
19 outcomes is to be measured.

20 (D) The governance structure of the school, including, but not  
21 limited to, the process to be followed by the school to ensure  
22 parental involvement.

23 (E) The qualifications to be met by individuals to be employed  
24 by the school.

25 (F) The procedures that the school will follow to ensure the  
26 health and safety of pupils and staff. These procedures shall include  
27 the requirement that each employee of the school furnish the school  
28 with a criminal record summary as described in Section 44237.

29 (G) The means by which the school will ~~achieve a racial and~~  
30 ~~ethnic balance among its pupils that is reflective of the general~~  
31 ~~population residing within the territorial jurisdiction of the school~~  
32 ~~district to which the charter petition is submitted.~~ *serve pupil*  
33 *populations that are similar to the local school district pupil*  
34 *populations or similar to pupil populations in the school’s local*  
35 *community, or similar to the pupil populations identified in the*  
36 *charter petition as the target pupil populations to be served,*  
37 *especially with regard to high-need pupils, including, but not*  
38 *limited to, pupils with disabilities, pupils living in poverty, and*  
39 *English learners. The chartering authority that authorizes a charter*  
40 *school shall consider, when determining whether to grant a*

1 *renewal, the degree to which a charter school serves pupil*  
2 *populations that are similar to the local district pupil populations*  
3 *or similar to pupil populations in the school's local community,*  
4 *or similar to the pupil populations identified in the charter petition*  
5 *as the target pupil populations to be served, especially with regard*  
6 *to high-need pupils, including, but not limited to, pupils with*  
7 *disabilities, pupils living in poverty, and English learners, provided*  
8 *that the authorizer may take into consideration demographic and*  
9 *lottery fluctuations that could affect the school's progress.*

10 (H) Admission requirements, if applicable.

11 (I) The manner in which annual, independent, financial *and*  
12 *compliance* audits shall be conducted, which shall employ  
13 government auditing standards, and the manner in which audit  
14 exceptions and deficiencies shall be resolved to the satisfaction of  
15 the chartering ~~authority, consistent with the supplement to the~~  
16 *authority. This subparagraph shall be implemented in a manner*  
17 *consistent with the charter school audit guide adopted pursuant to*  
18 *subdivision (f) of Section 14502.1.*

19 (J) The procedures by which pupils can be suspended or  
20 expelled.

21 (K) The manner by which staff members of the charter schools  
22 will be covered by the State Teachers' Retirement System, the  
23 Public Employees' Retirement System, or federal social security.

24 (L) The public school attendance alternatives for pupils residing  
25 within the school district who choose not to attend charter schools.

26 (M) A description of the rights of any employee of the school  
27 district upon leaving the employment of the school district to work  
28 in a charter school, and of any rights of return to the school district  
29 after employment at a charter school.

30 (N) The procedures to be followed by the charter school and  
31 the entity granting the charter to resolve disputes relating to  
32 provisions of the charter.

33 (O) A declaration whether or not the charter school shall be  
34 deemed the exclusive public school employer of the employees of  
35 the charter school for the purposes of Chapter 10.7 (commencing  
36 with Section 3540) of Division 4 of Title 1 of the Government  
37 Code.

38 (P) A description of the procedures to be used if the charter  
39 school closes. The procedures shall ensure a final audit of the  
40 school to determine the disposition of all assets and liabilities of

1 the charter school, including plans for disposing of any net assets  
2 and for the maintenance and transfer of pupil records.

3 ~~(6) The petitioner has operated another charter school for at~~  
4 ~~least three consecutive years and any of the following have~~  
5 ~~occurred:~~

6 ~~(A) The charter school demonstrated academic achievement~~  
7 ~~equivalent to a persistently lowest-achieving school as set forth in~~  
8 ~~Section 53200.~~

9 ~~(B) The charter school completed its first renewal cycle and~~  
10 ~~was not renewed by the authorizing entity, the county board of~~  
11 ~~education, or the state board.~~

12 ~~(C) The charter school had its charter revoked, and the charter~~  
13 ~~was not restored by the county board of education or the state~~  
14 ~~board.~~

15 (c) (1) Charter schools shall meet all statewide standards and  
16 conduct the pupil assessments required pursuant to Sections 60605  
17 and 60851 and any other statewide standards authorized in statute  
18 or pupil assessments applicable to pupils in noncharter public  
19 schools.

20 (2) Charter schools shall consult, on a regular basis, with their  
21 parents, legal guardians, and teachers regarding the school's  
22 educational programs.

23 (d) (1) In addition to any other requirement imposed under this  
24 part, a charter school shall be nonsectarian in its programs,  
25 admission policies, employment practices, and all other operations,  
26 shall not charge tuition, and shall not discriminate against any  
27 pupil on the basis of the characteristics listed in Section 220. Except  
28 as provided in paragraph (2), admission to a charter school shall  
29 not be determined according to the place of residence of the pupil,  
30 or of his or her parent or legal guardian, within this state, except  
31 that an existing public school converting partially or entirely to a  
32 charter school under this part shall adopt and maintain a policy  
33 giving admission preference to pupils who reside within the former  
34 attendance area of that public school.

35 (2) (A) A charter school shall admit all pupils who wish to  
36 attend the school.

37 (B) If the number of pupils who wish to attend the charter school  
38 exceeds the school's capacity, attendance, except for existing pupils  
39 of the charter school, shall be determined by a public random  
40 drawing. Preference shall be extended to pupils currently attending

1 the charter school and pupils who reside in the district except as  
2 provided for in Section 47614.5. Other preferences may be  
3 permitted by the chartering authority on an individual school basis  
4 and only if consistent with the law.

5 (C) In the event of a drawing, the chartering authority shall  
6 make reasonable efforts to accommodate the growth of the charter  
7 school and in no event shall take any action to impede the charter  
8 school from expanding enrollment to meet pupil demand.

9 (3) If a pupil is expelled or leaves the charter school without  
10 graduating or completing the school year for any reason, the charter  
11 school shall notify the superintendent of the school district of the  
12 pupil's last known address within 30 days, and, upon request, shall  
13 provide that school district with a copy of the cumulative record  
14 of the pupil, including a transcript of grades or report card, and  
15 health information. This paragraph applies only to pupils subject  
16 to compulsory full-time education pursuant to Section 48200.

17 (e) The governing board of a school district shall not require  
18 any employee of the school district to be employed in a charter  
19 school.

20 (f) The governing board of a school district shall not require  
21 any pupil enrolled in the school district to attend a charter school.

22 (g) The governing board of a school district shall require that  
23 the petitioner or petitioners provide information regarding the  
24 proposed operation and potential effects of the school, including,  
25 but not limited to, the facilities to be utilized by the school, the  
26 manner in which administrative services of the school are to be  
27 provided, and potential civil liability effects, if any, upon the school  
28 and upon the school district. The description of the facilities to be  
29 used by the charter school shall specify where the school intends  
30 to locate. The petitioner or petitioners shall also be required to  
31 provide financial statements that include a proposed first-year  
32 operational budget, including startup costs, and cashflow and  
33 financial projections for the first three years of operation.

34 (h) In reviewing petitions for the establishment of charter  
35 schools within the school district, the governing board of the school  
36 district shall give preference to petitions that demonstrate the  
37 capability to provide comprehensive learning experiences to pupils  
38 identified by the petitioner or petitioners as academically low  
39 achieving pursuant to the standards established by the department  
40 under Section 54032 as it read prior to July 19, 2006.

1 (i) Upon the approval of the petition by the governing board of  
2 the school district, the petitioner or petitioners shall provide written  
3 notice of that approval, including a copy of the petition, to the  
4 applicable county superintendent of schools, the department, and  
5 the state board.

6 (j) (1) If the governing board of a school district denies a  
7 petition, the petitioner may elect to submit the petition for the  
8 establishment of a charter school to the county board of education.  
9 The county board of education shall review the petition pursuant  
10 to subdivision (b). If the petitioner elects to submit a petition for  
11 establishment of a charter school to the county board of education  
12 and the county board of education denies the petition, the petitioner  
13 may file a petition for establishment of a charter school with the  
14 state board, and the state board may approve the petition, in  
15 accordance with subdivision (b). A charter school that receives  
16 approval of its petition from a county board of education or from  
17 the state board on appeal shall be subject to the same requirements  
18 concerning geographic location to which it would otherwise be  
19 subject if it received approval from the entity to which it originally  
20 submitted its petition. A charter petition that is submitted to either  
21 a county board of education or to the state board shall meet all  
22 otherwise applicable petition requirements, including the  
23 identification of the proposed site or sites where the charter school  
24 will operate.

25 (2) In assuming its role as a chartering agency, the state board  
26 shall develop criteria to be used for the review and approval of  
27 charter school petitions presented to the state board. The criteria  
28 shall address all elements required for charter approval, as  
29 identified in subdivision (b), and shall define “reasonably  
30 comprehensive” as used in paragraph (5) of subdivision (b) in a  
31 way that is consistent with the intent of this part. Upon satisfactory  
32 completion of the criteria, the state board shall adopt the criteria  
33 on or before June 30, 2001.

34 (3) A charter school for which a charter is granted by either the  
35 county board of education or the state board based on an appeal  
36 pursuant to this subdivision shall qualify fully as a charter school  
37 for all funding and other purposes of this part.

38 (4) If either the county board of education or the state board  
39 fails to act on a petition within 120 days of receipt, the decision

1 of the governing board of the school district to deny a petition  
2 shall, thereafter, be subject to judicial review.

3 (5) The state board shall adopt regulations implementing this  
4 subdivision.

5 (6) Upon the approval of the petition by the county board of  
6 education, the petitioner or petitioners shall provide written notice  
7 of that approval, including a copy of the petition, to the department  
8 and the state board.

9 (k) (1) The state board, by mutual agreement, may designate  
10 its supervisory and oversight responsibilities for a charter school  
11 it approves to any local educational agency in the county in which  
12 the charter school is located or to the governing board of the school  
13 district that first denied the petition.

14 (2) The designated local educational agency shall have all  
15 monitoring and supervising authority of a chartering agency,  
16 including, but not limited to, powers and duties set forth in Section  
17 47607, except the power of revocation, which shall remain with  
18 the state board.

19 (3) A charter school that has been granted its charter through  
20 an appeal to the state board and elects to seek renewal of its charter  
21 shall, prior to expiration of the charter, submit its petition for  
22 renewal to the governing board of the school district that initially  
23 denied the charter. If the governing board of the school district  
24 denies the school's petition for renewal, the school may petition  
25 the state board for renewal of its charter.

26 (l) Teachers in charter schools shall hold a Commission on  
27 Teacher Credentialing certificate, permit, or other document  
28 equivalent to that which a teacher in other public schools would  
29 be required to hold. These documents shall be maintained on file  
30 at the charter school and are subject to periodic inspection by the  
31 chartering authority. It is the intent of the Legislature that charter  
32 schools be given flexibility with regard to noncore, noncollege  
33 preparatory courses.

34 (m) A charter school shall transmit a copy of its annual,  
35 independent financial audit report for the preceding fiscal year, as  
36 described in subparagraph (I) of paragraph (5) of subdivision (b),  
37 to its chartering entity, the Controller, the county superintendent  
38 of schools of the county in which the charter school is sited, unless  
39 the county board of education of the county in which the charter  
40 school is sited is the chartering entity, and the department by



1 December 15 of each year. This subdivision does not apply if the  
2 audit of the charter school is encompassed in the audit of the  
3 chartering entity pursuant to Section 41020.

4 SEC. 5. Section 47605.6 of the Education Code is amended to  
5 read:

6 47605.6. (a) (1) In addition to the authority provided by  
7 Section 47605.5, a county board of education may also approve a  
8 petition for the operation of a charter school that operates at one  
9 or more sites within the geographic boundaries of the county and  
10 that provides instructional services that are not generally provided  
11 by a county office of education. A county board of education may  
12 only approve a countywide charter if it finds, in addition to the  
13 other requirements of this section, that the educational services to  
14 be provided by the charter school will offer services to a pupil  
15 population that will benefit from those services and that cannot be  
16 served as well by a charter school that operates in only one school  
17 district in the county. A petition for the establishment of a  
18 countywide charter school pursuant to this subdivision may be  
19 circulated throughout the county by any one or more persons  
20 seeking to establish the charter school. The petition may be  
21 submitted to the county board of education for review after either  
22 of the following conditions are met:

23 (A) The petition is signed by a number of parents or guardians  
24 of pupils residing within the county that is equivalent to at least  
25 one-half of the number of pupils that the charter school estimates  
26 will enroll in the school for its first year of operation and each of  
27 the school districts where the charter school petitioner proposes  
28 to operate a facility has received at least 30 days notice of the  
29 petitioner's intent to operate a school pursuant to this section.

30 (B) The petition is signed by a number of teachers that is  
31 equivalent to at least one-half of the number of teachers that the  
32 charter school estimates will be employed at the school during its  
33 first year of operation and each of the school districts where the  
34 charter school petitioner proposes to operate a facility has received  
35 at least 30 days notice of the petitioner's intent to operate a school  
36 pursuant to this section.

37 (2) An existing public school may not be converted to a charter  
38 school in accordance with this section.

39 (3) After receiving approval of its petition, a charter school that  
40 proposes to establish operations at additional sites within the

1 geographic boundaries of the county board of education shall notify  
2 the school districts where those sites will be located. The charter  
3 school also shall request a material revision of its charter by the  
4 county board of education that approved its charter, and the county  
5 board shall consider whether to approve those additional locations  
6 at an open, public meeting, held no sooner than 30 days following  
7 notification of the school districts where the sites will be located.  
8 If approved, the location of the approved sites shall be a material  
9 revision of the school's approved charter.

10 (4) A petition shall include a prominent statement indicating  
11 that a signature on the petition means that the parent or guardian  
12 is meaningfully interested in having his or her child or ward attend  
13 the charter school, or in the case of a teacher's signature, means  
14 that the teacher is meaningfully interested in teaching at the charter  
15 school. The proposed charter shall be attached to the petition.

16 (b) No later than 60 days after receiving a petition, in accordance  
17 with subdivision (a), the county board of education shall hold a  
18 public hearing on the provisions of the charter, at which time the  
19 county board of education shall consider the level of support for  
20 the petition by teachers, parents or guardians, and the school  
21 districts where the charter school petitioner proposes to place  
22 school facilities. Following review of the petition and the public  
23 hearing, the county board of education shall either grant or deny  
24 the charter within 90 days of receipt of the petition. However, this  
25 date may be extended by an additional 30 days if both parties agree  
26 to the extension. A county board of education may impose any  
27 additional requirements beyond those required by this section that  
28 it considers necessary for the sound operation of a countywide  
29 charter school. A county board of education may grant a charter  
30 for the operation of a school under this part only if the board is  
31 satisfied that granting the charter is consistent with sound  
32 educational practice and that the charter school has reasonable  
33 justification for why it could not be established by petition to a  
34 school district pursuant to Section 47605. The county board of  
35 education shall deny a petition for the establishment of a charter  
36 school if the board finds one or more of the following:

37 (1) The charter school presents an unsound educational program  
38 for the pupils to be enrolled in the charter school.

39 (2) The petitioners are demonstrably unlikely to successfully  
40 implement the program set forth in the petition. *In determining if*

1 *a petitioner is demonstrably unlikely to successfully implement the*  
2 *program set forth in the petition, a chartering authority may*  
3 *consider whether a petitioner has operated another charter school*  
4 *for at least three consecutive years and any of the following have*  
5 *occurred:*

6 (A) *The charter school demonstrated academic achievement*  
7 *equivalent to a persistently lowest-achieving school, as defined in*  
8 *Section 53200.*

9 (B) *The charter school completed its first renewal cycle and*  
10 *was not renewed by the authorizing entity, the county board of*  
11 *education, or the state board.*

12 (C) *The charter school had its charter revoked, and the charter*  
13 *was not restored by the county board of education or the state*  
14 *board.*

15 (3) The petition does not contain the number of signatures  
16 required by subdivision (a).

17 (4) The petition does not contain an affirmation of each of the  
18 conditions described in subdivision (d).

19 (5) The petition does not contain reasonably comprehensive  
20 descriptions of all of the following:

21 (A) (i) A description of the educational program of the school,  
22 designed, among other things, to identify those pupils whom the  
23 school is attempting to educate, what it means to be an “educated  
24 person” in the 21st century, and how learning best occurs. The  
25 goals identified in that program shall include the objective of  
26 enabling pupils to become self-motivated, competent, and lifelong  
27 learners.

28 (ii) If the proposed charter school will enroll high school pupils,  
29 a description of ~~the manner in which~~ the manner in which the  
30 charter school will inform parents regarding the transferability of  
31 courses to other public high schools. Courses offered by the charter  
32 school that are accredited by the Western Association of Schools  
33 and Colleges may be considered to be transferable to other public  
34 high schools.

35 (iii) If the proposed charter school will enroll high school pupils,  
36 information as to the manner in which the charter school will  
37 inform parents as to whether each individual course offered by the  
38 charter school meets college entrance requirements. Courses  
39 approved by the University of California or the California State  
40 University as satisfying their prerequisites for admission may be

1 considered as meeting college entrance requirements for purposes  
2 of this clause.

3 (B) The measurable pupil outcomes identified for use by the  
4 charter school. “Pupil outcomes,” for purposes of this part, means  
5 the extent to which all pupils of the school demonstrate that they  
6 have attained the skills, knowledge, and attitudes specified as goals  
7 in the school’s educational program.

8 (C) The method by which pupil progress in meeting those pupil  
9 outcomes is to be measured.

10 (D) The location of each charter school facility that the petitioner  
11 proposes to operate.

12 (E) The governance structure of the school, including, but not  
13 limited to, the process to be followed by the school to ensure  
14 parental involvement.

15 (F) The qualifications to be met by individuals to be employed  
16 by the school.

17 (G) The procedures that the school will follow to ensure the  
18 health and safety of pupils and staff. These procedures shall include  
19 the requirement that each employee of the school furnish the school  
20 with a criminal record summary as described in Section 44237.

21 (H) ~~The means by which the school will achieve a racial and~~  
22 ~~ethnic balance among its pupils that is reflective of the general~~  
23 ~~population residing within the territorial jurisdiction of the school~~  
24 ~~district to which the charter petition is submitted.~~ *serve pupil*  
25 *populations that are similar to the local school district pupil*  
26 *populations or similar to pupil populations in the school’s local*  
27 *community, or similar to the pupil populations identified in the*  
28 *charter petition as the target pupil populations to be served,*  
29 *especially with regard to high-need pupils, including, but not*  
30 *limited to, pupils with disabilities, pupils living in poverty, and*  
31 *English learners. The chartering authority that authorizes a charter*  
32 *school shall consider, when determining whether to grant a*  
33 *renewal, the degree to which a charter school serves pupil*  
34 *populations that are similar to the local school district pupil*  
35 *populations or similar to pupil populations identified in the charter*  
36 *petition as the target pupil populations to be served, especially*  
37 *with regard to high-need pupils, including, but not limited to,*  
38 *pupils with disabilities, pupils living in poverty, and English*  
39 *learners, provided that the authorizer may take into consideration*

1 *demographic and lottery fluctuations that could affect the school's*  
2 *progress.*

3 ~~(I) The manner in which annual, independent, financial, and~~  
4 ~~compliance audits shall be conducted, in accordance with audit~~  
5 ~~guide regulations adopted by the Education Audits Appeal Panel,~~  
6 ~~and the manner in which audit exceptions and deficiencies shall~~  
7 ~~be resolved.~~

8 *(I) The manner in which annual, independent, financial and*  
9 *compliance audits, which shall employ government auditing*  
10 *standards, shall be conducted and the manner in which audit*  
11 *exceptions and deficiencies shall be resolved to the satisfaction of*  
12 *the chartering authority. This subparagraph shall be implemented*  
13 *in a manner consistent with the charter school audit guide adopted*  
14 *pursuant to subdivision (f) of Section 14502.1.*

15 (J) The procedures by which pupils can be suspended or  
16 expelled.

17 (K) The manner by which staff members of the charter schools  
18 will be covered by the State Teachers' Retirement System, the  
19 Public Employees' Retirement System, or federal social security.

20 (L) The procedures to be followed by the charter school and the  
21 county board of education to resolve disputes relating to provisions  
22 of the charter.

23 (M) A declaration whether or not the charter school shall be  
24 deemed the exclusive public school employer of the employees of  
25 the charter school for the purposes of the Educational Employment  
26 Relations Act (Chapter 10.7 (commencing with Section 3540) of  
27 Division 4 of Title 1 of the Government Code).

28 (N) Admission requirements; of the charter school, if applicable.

29 (O) The public school attendance alternatives for pupils residing  
30 within the county who choose not to attend the charter school.

31 (P) A description of the rights of an employee of the county  
32 office of education, upon leaving the employment of the county  
33 office of education, to be employed by the charter school, and a  
34 description of any rights of return to the county office of education  
35 that an employee may have upon leaving the employ of the charter  
36 school.

37 (Q) A description of the procedures to be used if the charter  
38 school closes. The procedures shall ensure a final audit of the  
39 school to determine the disposition of all assets and liabilities of

1 the charter school, including plans for disposing of any net assets  
2 and for the maintenance and transfer of public records.

3 ~~(6) The petitioner has operated another charter school for at~~  
4 ~~least three consecutive years and any of the following have~~  
5 ~~occurred:~~

6 ~~(A) The charter school demonstrated academic achievement~~  
7 ~~equivalent to a persistently lowest-achieving school as set forth in~~  
8 ~~Section 53200.~~

9 ~~(B) The charter school completed its first renewal cycle and~~  
10 ~~was not renewed by the authorizing entity, the county board of~~  
11 ~~education, or the state board.~~

12 ~~(C) The charter school had its charter revoked, and the charter~~  
13 ~~was not restored by the county board of education or the state~~  
14 ~~board.~~

15 ~~(7)~~

16 (6) Any other basis that the county board of education finds  
17 justifies the denial of the petition.

18 (c) A county board of education that approves a petition for the  
19 operation of a countywide charter may, as a condition of charter  
20 approval, enter into an agreement with a third party, at the expense  
21 of the charter school, to oversee, monitor, and report to the county  
22 board of education on the operations of the charter school. The  
23 county board of education may prescribe the aspects of the charter  
24 school's operations to be monitored by the third party and may  
25 prescribe appropriate requirements regarding the reporting of  
26 information concerning the operations of the charter school to the  
27 county board of education.

28 (d) (1) Charter schools shall meet all statewide standards and  
29 conduct the pupil assessments required pursuant to Section 60605  
30 and any other statewide standards authorized in statute or pupil  
31 assessments applicable to pupils in noncharter public schools.

32 (2) Charter schools shall consult, on a regular basis, with their  
33 parents and teachers regarding the school's educational programs.

34 (e) (1) In addition to any other requirement imposed under this  
35 part, a charter school shall be nonsectarian in its programs,  
36 admission policies, employment practices, and all other operations,  
37 shall not charge tuition, and shall not discriminate against any  
38 pupil on the basis of ethnicity, national origin, gender, or disability.  
39 Except as provided in paragraph (2), admission to a charter school

1 shall not be determined according to the place of residence of the  
2 pupil, or of his or her parent or guardian, within this state.

3 (2) (A) A charter school shall admit all pupils who wish to  
4 attend the school.

5 (B) If the number of pupils who wish to attend the charter school  
6 exceeds the school's capacity, attendance, except for existing pupils  
7 of the charter school, shall be determined by a public random  
8 drawing. Preference shall be extended to pupils currently attending  
9 the charter school and pupils who reside in the county except as  
10 provided for in Section 47614.5. Other preferences may be  
11 permitted by the chartering authority on an individual school basis  
12 and only if consistent with the law.

13 (C) In the event of a drawing, the county board of education  
14 shall make reasonable efforts to accommodate the growth of the  
15 charter school and, in no event, shall take any action to impede  
16 the charter school from expanding enrollment to meet pupil  
17 demand.

18 (f) No county board of education shall require any employee of  
19 the county or a school district to be employed in a charter school.

20 (g) No county board of education shall require any pupil enrolled  
21 in a county program to attend a charter school.

22 (h) The county board of education shall require that the  
23 petitioner or petitioners provide information regarding the proposed  
24 operation and potential effects of the school, including, but not  
25 limited to, the facilities to be utilized by the school, the manner in  
26 which administrative services of the school are to be provided,  
27 and potential civil liability effects, if any, upon the school, any  
28 school district where the charter school may operate, and upon the  
29 county board of education. The petitioner or petitioners shall also  
30 be required to provide financial statements that include a proposed  
31 first-year operational budget, including startup costs, and cashflow  
32 and financial projections for the first three years of operation.

33 (i) In reviewing petitions for the establishment of charter schools  
34 within the county, the county board of education shall give  
35 preference to petitions that demonstrate the capability to provide  
36 comprehensive learning experiences to pupils identified by the  
37 petitioner or petitioners as academically low achieving pursuant  
38 to the standards established by the department under Section 54032.

39 (j) Upon the approval of the petition by the county board of  
40 education, the petitioner or petitioners shall provide written notice

1 of that approval, including a copy of the petition, to the school  
2 districts within the county, the Superintendent, and the state board.

3 (k) If a county board of education denies a petition, the petitioner  
4 may not elect to submit the petition for the establishment of the  
5 charter school to the state board.

6 (l) Teachers in charter schools shall be required to hold a  
7 Commission on Teacher Credentialing certificate, permit, or other  
8 document equivalent to that which a teacher in other public schools  
9 would be required to hold. These documents shall be maintained  
10 on file at the charter school and shall be subject to periodic  
11 inspection by the chartering authority.

12 (m) A charter school shall transmit a copy of its annual,  
13 independent, financial audit report for the preceding fiscal year,  
14 as described in subparagraph (I) of paragraph (5) of subdivision  
15 (b), to the county office of education, the Controller, and the  
16 department by December 15 of each year. This subdivision shall  
17 not apply if the audit of the charter school is encompassed in the  
18 audit of the chartering entity pursuant to Section 41020.

19 ~~SEC. 6. Section 47607 of the Education Code is amended to~~  
20 ~~read:~~

21 ~~47607. (a) (1) A charter may be granted pursuant to Sections~~  
22 ~~47605, 47605.5, and 47606 for a period not to exceed five years.~~  
23 ~~A charter granted by a school district governing board, a county~~  
24 ~~board of education, or the state board, may be granted one or more~~  
25 ~~subsequent renewals by that entity. Each renewal shall be for a~~  
26 ~~period of one to five years. A material revision of the provisions~~  
27 ~~of a charter petition may be made only with the approval of the~~  
28 ~~authority that granted the charter. The authority that granted the~~  
29 ~~charter may inspect or observe any part of the charter school at~~  
30 ~~any time.~~

31 ~~(2) Renewals and material revisions of charters are governed~~  
32 ~~by the standards and criteria in Section 47605, and shall include,~~  
33 ~~but not be limited to, a reasonably comprehensive description of~~  
34 ~~any new requirement of charter schools enacted into law after the~~  
35 ~~charter was originally granted or last renewed.~~

36 ~~(3) The chartering authority that authorizes a charter school~~  
37 ~~shall consider, as one factor in determining whether to grant a~~  
38 ~~renewal, the degree to which a charter school serves pupil~~  
39 ~~populations that are similar to the local school district pupil~~  
40 ~~populations or similar to pupil populations in the school's local~~



1 community, or similar to the pupil populations identified in the  
2 charter petition as the target pupil populations to be served,  
3 especially with regard to high-need pupils, including, but not  
4 limited to, pupils with disabilities, pupils living in poverty, and  
5 English learners.

6 (b) ~~A charter school that has been in operation for four years~~  
7 ~~shall meet at least one of the following criteria prior to receiving~~  
8 ~~a charter renewal pursuant to paragraph (1) of subdivision (a):~~

9 (1) ~~Attained its Academic Performance Index (API) schoolwide~~  
10 ~~and subgroup growth targets in the prior year or in two of the last~~  
11 ~~three years, or in the aggregate for the prior three years:~~

12 (2) ~~Ranked in deciles 4 to 10, inclusive, on the API in the prior~~  
13 ~~year or in two of the last three years:~~

14 (3) ~~Ranked in deciles 4 to 10, inclusive, on the API for a~~  
15 ~~demographically comparable school in the prior year or in two of~~  
16 ~~the last three years:~~

17 (4) ~~Has qualified for an alternative accountability system~~  
18 ~~pursuant to subdivision (h) of Section 52052.~~

19 (5) ~~Has met or exceeded the API of the local school district.~~

20 (c) ~~Notwithstanding subdivision (a), for purposes of achieving~~  
21 ~~high-performing charter schools, a chartering authority shall not~~  
22 ~~do either of the following:~~

23 (1) ~~Grant a renewal of a charter school for a period longer than~~  
24 ~~three years if that charter school is in program improvement,~~  
25 ~~pursuant to the federal No Child Left Behind Act of 2001 (20~~  
26 ~~U.S.C. Sec. 6301 et seq.):~~

27 (2) ~~Grant a renewal of a charter school that has entered into year~~  
28 ~~five of program improvement, pursuant to the federal No Child~~  
29 ~~Left Behind Act of 2001 (20 U.S.C. Sec. 6301 et seq.), has not~~  
30 ~~exited program improvement, and did not meet Adequate Yearly~~  
31 ~~Progress in the year prior to the renewal year.~~

32 (3) ~~This subdivision does not apply to charter schools that~~  
33 ~~qualify for the alternative accountability system developed pursuant~~  
34 ~~to subdivision (h) of Section 52052.~~

35 (d) ~~A charter may be revoked by the authority that granted the~~  
36 ~~charter under this chapter if the authority finds, through a showing~~  
37 ~~of substantial evidence, that the charter school did any of the~~  
38 ~~following:~~

39 (1) ~~Committed a material violation of any of the conditions,~~  
40 ~~standards, or procedures set forth in the charter.~~

1     ~~(2) Failed to meet or pursue any of the pupil outcomes identified~~  
2     ~~in the charter.~~

3     ~~(3) Failed to meet generally accepted accounting principles, or~~  
4     ~~engaged in fiscal mismanagement.~~

5     ~~(4) Violated any provision of law.~~

6     ~~(e) Prior to revocation, the authority that granted the charter~~  
7     ~~shall notify the charter public school of any violation of this section~~  
8     ~~and give the school a reasonable opportunity to remedy the~~  
9     ~~violation, unless the authority determines, in writing, that the~~  
10    ~~violation constitutes a severe and imminent threat to the health or~~  
11    ~~safety of the pupils.~~

12    ~~(f) Prior to revoking a charter for failure to remedy a violation~~  
13    ~~pursuant to subdivision (e), and after expiration of the school's~~  
14    ~~reasonable opportunity to remedy without successfully remedying~~  
15    ~~the violation, the chartering authority shall provide a written notice~~  
16    ~~of intent to revoke and notice of facts in support of revocation to~~  
17    ~~the charter school. No later than 30 days after providing the notice~~  
18    ~~of intent to revoke a charter, the chartering authority shall hold a~~  
19    ~~public hearing, in the normal course of business, on the issue of~~  
20    ~~whether evidence exists to revoke the charter. No later than 30~~  
21    ~~days after the public hearing, the chartering authority shall issue~~  
22    ~~a final decision to revoke or decline to revoke the charter, unless~~  
23    ~~the chartering authority and the charter school agree to extend the~~  
24    ~~issuance of the decision by an additional 30 days. The chartering~~  
25    ~~authority shall not revoke a charter, unless it makes written factual~~  
26    ~~findings supported by substantial evidence, specific to the charter~~  
27    ~~school, that support its findings.~~

28    ~~(g) (1) If a school district is the chartering authority and it~~  
29    ~~revokes a charter pursuant to this section, the charter school may~~  
30    ~~appeal the revocation to the county board of education within 30~~  
31    ~~days following the final decision of the chartering authority.~~

32    ~~(2) The county board may reverse the revocation decision if the~~  
33    ~~county board determines that the findings made by the chartering~~  
34    ~~authority under subdivision (f) are not supported by substantial~~  
35    ~~evidence. The school district may appeal the reversal to the state~~  
36    ~~board.~~

37    ~~(3) If the county board does not issue a decision on the appeal~~  
38    ~~within 90 days of receipt, or the county board upholds the~~  
39    ~~revocation, the charter school may appeal the revocation to the~~  
40    ~~state board.~~

1     ~~(4) The state board may reverse the revocation decision if the~~  
2     ~~state board determines that the findings made by the chartering~~  
3     ~~authority under subdivision (f) are not supported by substantial~~  
4     ~~evidence. The state board may uphold the revocation decision of~~  
5     ~~the school district if the state board determines that the findings~~  
6     ~~made by the chartering authority under subdivision (f) are~~  
7     ~~supported by substantial evidence.~~

8     ~~(h) (1) If a county office of education is the chartering authority~~  
9     ~~and the county board revokes a charter pursuant to this section,~~  
10    ~~the charter school may appeal the revocation to the state board~~  
11    ~~within 30 days following the decision of the chartering authority.~~

12    ~~(2) The state board may reverse the revocation decision if the~~  
13    ~~state board determines that the findings made by the chartering~~  
14    ~~authority under subdivision (f) are not supported by substantial~~  
15    ~~evidence.~~

16    ~~(i) If the revocation decision of the chartering authority is~~  
17    ~~reversed on appeal, the agency that granted the charter shall~~  
18    ~~continue to be regarded as the chartering authority.~~

19    ~~(j) During the pendency of an appeal filed under this section, a~~  
20    ~~charter school, whose revocation proceedings are based on~~  
21    ~~paragraph (1) or (2) of subdivision (d), shall continue to qualify~~  
22    ~~as a charter school for funding and for all other purposes of this~~  
23    ~~part, and may continue to hold all existing grants, resources, and~~  
24    ~~facilities, in order to ensure that the education of pupils enrolled~~  
25    ~~in the school is not disrupted.~~

26    ~~(k) Immediately following the decision of a county board to~~  
27    ~~reverse a decision of a school district to revoke a charter, the~~  
28    ~~following shall apply:~~

29    ~~(1) The charter school shall qualify as a charter school for~~  
30    ~~funding and for all other purposes of this part.~~

31    ~~(2) The charter school may continue to hold all existing grants,~~  
32    ~~resources, and facilities.~~

33    ~~(3) Any funding, grants, resources, and facilities that had been~~  
34    ~~withheld from the charter school, or that the charter school had~~  
35    ~~otherwise been deprived of use, as a result of the revocation of the~~  
36    ~~charter shall be immediately reinstated or returned.~~

37    ~~(l) A final decision of a revocation or appeal of a revocation~~  
38    ~~pursuant to subdivision (d) shall be reported to the chartering~~  
39    ~~authority, the county board, and the department.~~

1     SEC. 6. *Section 47607 of the Education Code is amended to*  
2     *read:*

3     47607. (a) (1) A charter may be granted pursuant to Sections  
4     47605, 47605.5, and 47606 for a period not to exceed five years.  
5     A charter granted by *the governing board of* a school district  
6     ~~governing board~~, a county board of education, or the state board;  
7     may be granted one or more subsequent renewals by that entity.  
8     Each renewal shall be for a period of five years. A material revision  
9     of the provisions of a charter petition may be made only with the  
10    approval of the authority that granted the charter. The authority  
11    that granted the charter may inspect or observe any part of the  
12    charter school at any time.

13    (2) Renewals and material revisions of charters are governed  
14    by the standards and criteria in Section 47605, and shall include,  
15    but not be limited to, a reasonably comprehensive description of  
16    any new requirement of charter schools enacted into law after the  
17    charter was originally granted or last renewed.

18    ~~(b) Commencing on January 1, 2005, or after a charter school~~  
19    ~~has been in operation for four years, whichever date occurs later,~~  
20    ~~a charter school shall meet at least one of the following criteria~~  
21    ~~prior to receiving a charter renewal pursuant to paragraph (1) of~~  
22    ~~subdivision (a):~~

23    ~~(1) Attained its Academic Performance Index (API) growth~~  
24    ~~target in the prior year or in two of the last three years, or in the~~  
25    ~~aggregate for the prior three years.~~

26    ~~(2) Ranked in deciles 4 to 10, inclusive, on the API in the prior~~  
27    ~~year or in two of the last three years.~~

28    ~~(3) Ranked in deciles 4 to 10, inclusive, on the API for a~~  
29    ~~demographically comparable school in the prior year or in two of~~  
30    ~~the last three years.~~

31    ~~(4) (A) The entity that granted the charter determines that the~~  
32    ~~academic performance of the charter school is at least equal to the~~  
33    ~~academic performance of the public schools that the charter school~~  
34    ~~pupils would otherwise have been required to attend, as well as~~  
35    ~~the academic performance of the schools in the school district in~~  
36    ~~which the charter school is located, taking into account the~~  
37    ~~composition of the pupil population that is served at the charter~~  
38    ~~school.~~

39    ~~(B) The determination made pursuant to this paragraph shall be~~  
40    ~~based upon all of the following:~~

1 ~~(i) Documented and clear and convincing data.~~

2 ~~(ii) Pupil achievement data from assessments, including, but~~  
3 ~~not limited to, the Standardized Testing and Reporting Program~~  
4 ~~established by Article 4 (commencing with Section 60640) for~~  
5 ~~demographically similar pupil populations in the comparison~~  
6 ~~schools.~~

7 ~~(iii) Information submitted by the charter school.~~

8 ~~(C) A chartering authority shall submit to the Superintendent~~  
9 ~~copies of supporting documentation and a written summary of the~~  
10 ~~basis for any determination made pursuant to this paragraph. The~~  
11 ~~Superintendent shall review the materials and make~~  
12 ~~recommendations to the chartering authority based on that review.~~  
13 ~~The review may be the basis for a recommendation made pursuant~~  
14 ~~to Section 47604.5.~~

15 ~~(D) A charter renewal may not be granted to a charter school~~  
16 ~~prior to 30 days after that charter school submits materials pursuant~~  
17 ~~to this paragraph.~~

18 ~~(5) Has qualified for an alternative accountability system~~  
19 ~~pursuant to subdivision (h) of Section 52052.~~

20 *(b) The authorizer of a charter school that has been in operation*  
21 *for at least four years shall not consider or grant the renewal of*  
22 *the school's charter unless the school, based on data available as*  
23 *of October 1 of the fiscal year of the renewal, meets at least one*  
24 *of the following criteria:*

25 *(1) An Academic Performance Index (API) score of at least 700*  
26 *in the most recent year.*

27 *(2) Academic growth of at least 50 points over the prior three*  
28 *years as measured by the API, using the most recent data available.*

29 *(3) A rank in 6 to 10, inclusive, on the API for a*  
30 *demographically comparable school in the prior year or in two of*  
31 *the prior three years.*

32 *(4) Participation in the alternative accountability system*  
33 *developed pursuant to subdivision (h) of Section 52052. If*  
34 *subdivision (h) of Section 52052 is repealed or no longer operative,*  
35 *a dropout recovery high school, as defined in subparagraph (D)*  
36 *of paragraph (4) of subdivision (a) of Section 52052, shall meet*  
37 *the criteria of this paragraph.*

38 *(5) Receipt of a positive determination of academic eligibility*  
39 *for renewal from the state board within the prior 12 months.*

1     (c) (1) A charter school shall apply to the state board for a  
2     determination of academic eligibility pursuant to paragraph (5)  
3     of subdivision (b) if it chooses to submit its charter for renewal  
4     and either of the following applies:

5     (A) The charter school does not meet at least one of the criteria  
6     set forth in paragraphs (1) to (4), inclusive, of subdivision (b).

7     (B) The charter school has entered into year five of program  
8     improvement, pursuant to the federal No Child Left Behind Act of  
9     2001 (20 U.S.C. Sec. 6301 et seq.), has not exited program  
10    improvement, and does not meet at least two criteria set forth in  
11    paragraphs (1) to (3), inclusive, of subdivision (b).

12    (2) Subparagraph (B) of paragraph (1) shall not be used as one  
13    of the criteria for identifying a school that may seek a  
14    determination of academic eligibility if the Secretary of the United  
15    States Department of Education grants a waiver to the state related  
16    to the suspension or delay in requirements of all schools in  
17    program improvement.

18    (d) (1) Evidence supporting an application submitted pursuant  
19    to subdivision (c) shall be submitted to the state board and the  
20    Superintendent and may include, but is not limited to, information  
21    on individual pupil achievement, including longitudinal data that  
22    demonstrates individual pupil progress, analysis of similar pupil  
23    populations, or other relevant data as determined by the school.

24    (2) The Superintendent shall make a recommendation, based  
25    on evidence provided by the charter that is valid and reliable, to  
26    the state board on the application for a determination of academic  
27    eligibility for the renewal of a charter. The Superintendent's  
28    recommendation shall include an analysis of the validity and  
29    reliability of the evidence of academic success submitted by the  
30    charter school.

31    (3) The state board shall issue a positive determination of  
32    academic eligibility if the state board finds that the charter school  
33    clearly demonstrates that the academic performance of the school's  
34    pupils builds an expectation that the pupils will continue to improve  
35    academically and have the opportunity to be successful in college  
36    or career. In determining whether to grant a positive determination  
37    of academic eligibility, the state board shall consider that the  
38    farther the school is from satisfying paragraphs (1) to (3),  
39    inclusive, of subdivision (b), the greater the burden of proof on  
40    the school to demonstrate why the school was unable to satisfy the

1 *criteria in paragraphs (1) to (3), inclusive, of subdivision (b), and*  
2 *demonstrate why the academic performance is such that the school*  
3 *deserves a positive determination of academic eligibility.*

4 *(4) The charter of a charter school that is required to apply to*  
5 *the state board for a determination of academic eligibility, if the*  
6 *school chooses to submit its charter for renewal pursuant to*  
7 *subdivision (c) and is granted renewal by satisfying paragraph*  
8 *(5) of subdivision (b), shall be granted renewal for only three*  
9 *years.*

10 ~~(e)~~

11 *(e) A charter may be revoked by the authority that granted the*  
12 *charter under this chapter if the authority finds, through a showing*  
13 *of substantial evidence, that the charter school did any of the*  
14 *following:*

15 *(1) Committed a material violation of any of the conditions,*  
16 *standards, or procedures set forth in the charter.*

17 *(2) Failed to meet or pursue any of the pupil outcomes identified*  
18 *in the charter.*

19 *(3) Failed to meet generally accepted accounting principles, or*  
20 *engaged in fiscal mismanagement.*

21 *(4) Violated any provision of law.*

22 ~~(d) Prior to revocation, the authority that granted the charter~~

23 *(f) Before revoking a charter, the chartering authority shall*  
24 *notify the charter public school of any violation of this section and*  
25 *give the school a reasonable opportunity to remedy the violation;*  
26 *unless the authority determines, in writing, that the violation*  
27 *constitutes a severe and imminent threat to the health or safety of*  
28 *the pupils.*

29 ~~(e) Prior to~~

30 *(g) Before revoking a charter for failure to remedy a violation*  
31 *pursuant to subdivision ~~(d)~~ (f), and after expiration of the school's*  
32 *reasonable opportunity to remedy without successfully remedying*  
33 *the violation, the chartering authority shall provide a written notice*  
34 *of intent to revoke and notice of facts in support of revocation to*  
35 *the charter school. No later than 30 days after providing the notice*  
36 *of intent to revoke a charter, the chartering authority shall hold a*  
37 *public hearing, in the normal course of business, on the issue of*  
38 *whether evidence exists to revoke the charter. No later than 30*  
39 *days after the public hearing, the chartering authority shall issue*  
40 *a final decision to revoke or decline to revoke the charter, unless*

1 the chartering authority and the charter school agree to extend the  
2 issuance of the decision by an additional 30 days. The chartering  
3 authority shall not revoke a charter, unless it makes written factual  
4 findings supported by substantial evidence, specific to the charter  
5 school, that support its findings.

6 ~~(f)~~

7 (h) (1) If a school district is the chartering authority and it  
8 revokes a charter pursuant to this section, the charter school may  
9 appeal the revocation to the county board of education within 30  
10 days following the final decision of the chartering authority.

11 (2) The county board may reverse the revocation decision if the  
12 county board determines that the findings made by the chartering  
13 authority under subdivision~~(e)~~ (g) are not supported by substantial  
14 evidence. The school district may appeal the reversal to the state  
15 board.

16 (3) If the county board does not issue a decision on the appeal  
17 within 90 days of receipt, or the county board upholds the  
18 revocation, the charter school may appeal the revocation to the  
19 state board.

20 (4) The state board may reverse the revocation decision if the  
21 state board determines that the findings made by the chartering  
22 authority under subdivision~~(e)~~ (g) are not supported by substantial  
23 evidence. The state board may uphold the revocation decision of  
24 the school district if the state board determines that the findings  
25 made by the chartering authority under subdivision~~(e)~~ (g) are  
26 supported by substantial evidence.

27 ~~(g)~~

28 (i) (1) If a county office of education is the chartering authority  
29 and the county board revokes a charter pursuant to this section,  
30 the charter school may appeal the revocation to the state board  
31 within 30 days following the decision of the chartering authority.

32 (2) The state board may reverse the revocation decision if the  
33 state board determines that the findings made by the chartering  
34 authority under subdivision~~(e)~~ (g) are not supported by substantial  
35 evidence.

36 ~~(h)~~

37 (j) If the revocation decision of the chartering authority is  
38 reversed on appeal, the agency that granted the charter shall  
39 continue to be regarded as the chartering authority.

40 ~~(i)~~



1 (k) During the pendency of an appeal filed under this section,  
2 a charter school, whose revocation proceedings are based on  
3 paragraph (1) or (2) of subdivision ~~(e)~~ (e), shall continue to qualify  
4 as a charter school for funding and for all other purposes of this  
5 part, and may continue to hold all existing grants, resources, and  
6 facilities, in order to ensure that the education of pupils enrolled  
7 in the school is not disrupted.

8 ~~(j)~~

9 (l) Immediately following the decision of a county board to  
10 reverse a decision of a school district to revoke a charter, the  
11 following shall apply:

12 (1) The charter school shall qualify as a charter school for  
13 funding and for all other purposes of this part.

14 (2) The charter school may continue to hold all existing grants,  
15 resources, and facilities.

16 (3) Any funding, grants, resources, and facilities that had been  
17 withheld from the charter school, or that the charter school had  
18 otherwise been deprived of use, as a result of the revocation of the  
19 charter shall be immediately reinstated or returned.

20 ~~(k)~~

21 (m) A final decision of a revocation or appeal of a revocation  
22 pursuant to subdivision ~~(e)~~ (e) shall be reported to the chartering  
23 authority, the county board, and the department.

24 SEC. 7. Section 47630.6 is added to the Education Code, to  
25 read:

26 47630.6. (a) By December 31 of each fiscal year, the Controller  
27 shall publish a directory of certified public accountants and public  
28 accountants, licensed by the California Board of Accountancy,  
29 deemed by the Controller to be qualified to conduct audits of  
30 charter schools. Each audit of a charter school conducted pursuant  
31 to this part shall be conducted by a certified public accountant or  
32 public accountant selected by the charter school from the directory  
33 established pursuant to this subdivision.

34 (b) Except as provided in subdivision (d) of Section 41320.1,  
35 it is unlawful for a public accounting firm to provide audit services  
36 to a charter school if the lead audit partner, or coordinating audit  
37 partner, having primary responsibility for the audit, or the audit  
38 partner responsible for reviewing the audit, has performed audit  
39 services for that charter school in each of the six previous fiscal  
40 years.

1 (c) It is the intent of the Legislature that, notwithstanding  
2 subdivision (b), the rotation within public accounting firms  
3 conforms to provisions of the federal Sarbanes-Oxley Act of 2002  
4 (Public Law 107-204; 15 U.S.C. Sec. 7201 et seq.).

5 SEC. 8. If the Commission on State Mandates determines that  
6 this act contains costs mandated by the state, reimbursement to  
7 local agencies and school districts for those costs shall be made  
8 pursuant to Part 7 (commencing with Section 17500) of Division  
9 4 of Title 2 of the Government Code.